

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CITY OF ALMATY, KAZAKHSTAN
and BTA BANK JSC,

Plaintiffs,

v.

FELIX SATER, DANIEL RIDLOFF, BAYROCK
GROUP INC., GLOBAL HABITAT SOLUTIONS,
INC., RRMI-DR LLC, FERRARI HOLDINGS
LLC, and MEM ENERGY PARTNERS LLC,

Defendants.

No. 19 Civ. 2645 (JGK) (KHP)

[PROPOSED] ORDER

WHEREAS, on November 13, 2020, the United States District Court for the Southern District of New York executed a request to the Geneva Court of First Instance of the Swiss Confederation (the “Geneva Court”) for discovery pursuant to 28 U.S.C. § 1781(b) and the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, Mar. 18, 1970, 23 U.S.T. 2555, 847 U.N.T.S. 231 (the “Hague Request”);

WHEREAS, the Hague Request sought the assistance of the Geneva Court in obtaining the sworn deposition testimony of third-party witnesses Ilyas Khrapunov and Leila Khrapunova (together, the “Khrapunovs”);

WHEREAS, on January 13, 2022, the Geneva Court requested that this Court confirm whether the depositions of the Khrapunovs requested pursuant to the Hague Request were still necessary and to provide a list of questions to the Geneva Court;

WHEREAS, on January 28, 2022, this Court confirmed that the execution of the Hague Request was still necessary, and on February 17, 2022, Plaintiffs, through their Swiss counsel,

provided the list of questions to the Geneva Court;

WHEREAS, the depositions of the Khrapunovs were originally scheduled by the Geneva Court for May 18, 2022;

WHEREAS, on June 1, 2022, the Geneva Court issued an order noting that the Khrapunovs filed a motion requesting that the Hague Request be denied ("June 1 Order");

WHEREAS, the June 1 Order requested this Court to consider the grounds for the Khrapunovs' motion and indicate "whether the Court is continuing with [the] November 12, 2020 request" pursuant to the Hague Convention; and

WHEREAS, the Court has reviewed the Geneva Court's June 1 Order which describes the grounds for the Khrapunvos' motion;

IT IS HEREBY FOUND AND ORDERED THAT:

1. *This Court could not rule on the Khrapunov's objections without being provided with their objections. The Geneva court should rule on any objections raised.*
The Khrapunovs have stated no valid basis upon which this Court would relieve them of their obligation to provide testimony in this matter through the requested depositions.
2. The request for mutual assistance made by this Court in connection with the Hague Request and the depositions that are the subject of that request continue to be necessary.
3. This Court respectfully requests the Geneva Court to schedule the depositions of the Khrapunovs at the earliest time convenient for the Geneva Court on consecutive days or within the same week, and at a time and place that will permit verbatim recording (such as by video recording) such that the depositions would be admissible in these proceedings, consistent with the Hague Request.
4. To the extent there are any costs to the Geneva Court associated with taking or recording the Khrapunovs' testimony, Plaintiffs shall be responsible for those costs.

SO ORDERED.

Dated:

July 13, 2020

John G. Koeltl

Hon. John G. Koeltl
United States District Court Judge